#### NOTICE OF CONFIDENTIALITY RIGHTS: A NATURAL PERSON MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION BEFORE IT IS FILED IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

XTO REV PROD 88 (7-69) PAID UP (04/17/07)B

### NON-SURFACE USE OIL, GAS AND MINERAL LEASE

THIS AGREEMENT made this 12 day of \_ February , 2008, between the Lessor set forth on Schedule I attached hereto, as Lessor (whether one or more), whose address is set forth on Schedule I attached hereto, and XTO Energy Inc., whose address is: 810 Houston St., Fort Worth, Texas 76102, Lessee, WITNESSETH:

1. Lessor, in consideration of ten dollars and other valuable consideration, receipt of which is hereby acknowledged, and of the covenants and agreements of Lessee hereinafter contained, does hereby grant, lease and let unto Lessee the land covered hereby for the purposes and with the exclusive right of exploring, drilling, mining and operating for, producing and owning oil, gas, sulphur and all other minerals (whether or not similar to those mentioned), together with the right to make surveys on said land, lay pipe lines, establish and utilize facilities for surface or subsurface disposal of salt water, construct roads and bridges, dig canals, build tanks, power stations, telephone lines, employee houses and other structures on said land, necessary or useful in Lessee's operations in exploring, drilling for, producing, treating, storing and transporting minerals produced from the land covered hereby or any other land adjacent thereto. The land covered hereby, herein called "said land," is located in the County of Tarrant, State of Texas, and is described as follows:

7.401 acres of land, more or less, being the J.P. Graves & E.R. McDaniel Subdivision of Block 8 of Evans South Addition to the City of Fort Worth, as recorded in the Map or Plat Records thereof in Volume 204A, Page 99 of the Plat and Deed Records of Tarrant County Texas. The leased premises comprise all of the lands collectively described on Schedule 1 attached hereto opposite the headings "Lands Covered by this Lease.

This lease also covers and includes, in addition to that above described, all land, if any, contiguous or adjacent to or adjoining the land above described and (a) owned or claimed by Lessor by limitation, prescription, possession, reversion, after-acquired title or unrecorded instrument or (b) as to which Lessor has a preference right of acquisition. Lessor agrees to execute any supplemental instrument requested by Lessee for a more complete or accurate description of said land. For the purpose of determining the amount of any bonus or other payment hereunder, said land shall be deemed to contain <a href="7.401">7.401</a> acres, whether actually containing more or less, and the above recital of acreage in any tract shall be deemed to be the true acreage thereof. Lessor accepts the bonus as lump sum consideration for this lease and all rights and options hereunder.

- upon said land with no cessation for more than ninety (90) consecutive days.

  3. As royalty, Lessee covenants and agrees: (a) To deliver to the credit of Lessor, in the pipe line to which Lessee may connect its wells, the equal 25% part of all oil produced and saved by Lessee from said land, or from time to time, at the option of Lessee, to paz Lessor the average posted market price of such 25% part of such oil at the wells as of the day it run to the pipe line or storage tanks, Lessor's interest, in either case, to bear 25% of the cost of treating oil to render it marketable pipe line oil; (b) To pay Lessor on gas and casinghead gas produced from said land (1) when sold by Lessee, 25% of the amount realized by Lessee computed at the mouth of the well, or (2) when used by Lessee off said land or in the manufacture of gasoline or other products, the market value, at the mouth of the well, or (2) when used by Lessee off said land or in the manufacture of gasoline or other products, the market value, at the mouth of the well, or (2) when used by Lessee off said land or in the manufacture of gasoline or other products, the market value, at the mouth of the well, or (2) when used by Lessee off said land or in the manufacture of gasoline or other products, the market value, at the mouth of the well, or (2) when used the well or mine at Lessee's election, except that on sulphur mined and marketed or used the value, at the mouth of the well, or (2) when used the well or mine at Lessee's election, except that on sulphur mined and marketed the royalty shall be one dollar (\$1.00) per long ton. If at the expiration of the primary term or at any time or times thereafter, there is any well on said land or on lands with which said land or any portion thereof has been pooled, capable of producing oil or gas, and all such wells are shut-in, and thereafter this lease may be continued in force as though operations were being conducted on said land for so long as said wells are shut-in, and thereafter this lease may be confunced i
- nereor. In the event of assignment of this lease in whole or in part, liability for payment hereunder shall rest exclusively on the then owner or owners of this lease, severally as to acreage owned by each.

  4. Lessee is hereby granted the right, at its option, to pool or unitize any land covered by this lease with any other land, lease, or leases, as to any or all minerals or horizons, so as to establish units containing not more than 80 surface acres, plus 10% acreage tolerance; provided, however, units may be established as to any one or more horizons, so as to contain not more than 640 surface acres plus 10% acreage tolerance, if limited to one or more of the following: (1) gas, other than casinghead gas, (2) liquid hydrocarbons (condensate) which are not liquids in the subsurface reservoir, of minerals produced from wells classified as gas wells by the conservation agency having jurisdiction. If larger units than any of those herein permitted, either at the established or reduce relargement, are permitted or required under any governmental rule or order, for the dilling or operation of a well at a regular location, or for obtaining maximum allowable from any well to be drilled, drilling, or already drilled, any such unit may be established to enlarged to conform to the size permitted or required by such governmental order or rule. Lesse sail excrises said option as to each desired unit by executing an instrument identifying such unit and filing it for record in the public office in which this lease is recorded. Such unit shall become effective as of the date provided for in said instrument or instruments but if said instrument or instruments make no such provision, then such unit shall be come effective on the date such instrument or instruments are so filed of record. Each of said options may be exercised by unit and included in the unit, or on other land unitized therewith. A unit established hereunder shall be called and effective polyton or said land included in the unit, or on other land unitized ther part of the leased premises.



- 5. Lessee may at any time and from time to time execute and deliver to Lessor or file for record a release or releases of this lease as to any part or all of said land or of any mineral or horizon thereunder, and thereby be relieved of all obligations, as to the released acreage or interest.
- 6. Whenever used in this lease the word "operations" shall mean operations for and/or any of the following: preparing the drillsite location or access road, drilling, testing, completing, reworking, recompleting, deepening, sidetracking, plugging back or repairing of a well in search for or in an endeavor to obtain production of oil, gas, sulphur or other minerals, excavating a mine, production of oil, gas, sulphur or other mineral, whether or not in paying quantities.
- 7. Lessee shall have the use, free from royalty, of water, other than from Lessor's water wells, and of oil and gas produced from said land in all operations hereunder. Lessee shall have the right at any time to remove all machinery and fixtures placed on said land, including the right to draw and remove casing. No well shall be drilled nearer than 200 feet to the house or barn now on said land without the consent of the Lessor. Lessee shall pay for damages caused by its operations to growing crops and timber on said land.
- 8. The rights and estate of any party hereto may be assigned from time to time in whole or in part and as to any mineral or horizon. All of the covenants, obligations, and considerations of this lease shall extend to and be binding upon the parties hereto, their heirs, successors, assigns, and successive assigns. No change or division in the ownership of said land, royalties, or other moneys, or any part thereof, howsoever effected shall increase the obligations or diminish the rights of Lessee, including, but not limited to, the location and drilling of wells and the measurement of production. Notwithstanding any other actual or constructive knowledge or notice thereof of or to Lessee, its successors or assigns, no change or division in the ownership of said land or of the royalties, or other moneys, or the right to receive the same, howsoever effected, shall be binding upon the then record owner of this lease until sixty (60) days after there has been furnished to such record owner at his or its principal place of business by Lessor or Lessor's heirs, successors, or assigns, notice of such change or division, supported by either originals or duly certified copies of the instruments which have been properly filed for record and which evidence such change or division, and of such court records and proceedings, transcripts, or other documents as shall be necessary in the opinion of such record owner to establish the validity of such change or division. If any such change in ownership occurs by reason of the death of the owner, Lessee may, nevertheless pay or tender such royalties, or other moneys, or part thereof, to the credit of the decedent in a depository bank provided for above.
- 9. In the event Lessor considers that Lessee has not complied with all its obligations hereunder, both express and implied, Lessor shall notify Lessee in writing, setting out specifically in what respects Lessee has breached this contract. Lessee shall then have sixty (60) days after receipt of said notice within which to meet or commence to meet all or any part of the breaches alleged by Lessor. The service of said notice shall be precedent to the bringing of any action by Lessor on said lease for any cause, and no such action shall be brought until the lapse of sixty (60) days after service of such notice on Lessee. Neither the service of said notice nor the doing of any acts by Lessee aimed to meet all or any of the alleged breaches shall be deemed an admission or presumption that Lessee has failed to perform all its obligations hereunder. If this lease is canceled for any cause, it shall nevertheless remain in force and effect as to (1) sufficient acreage around each well as to which there are operations to constitute a drilling or maximum allowable unit under applicable governmental regulations, (but in no event less that forty acres), such acreage to be designated by Lessee as nearly as practicable in the form of a square centered at the well, or in such shape as then existing spacing rules require; and (2) any part of said land included in a pooled unit on which there are operations. Lessee shall also have such easements on said land as are necessary to operations on the acreage so retained and shall not be required to move or remove any existing surface facilities necessary or convenient for current operations.
- 10. Lessor hereby warrants and agrees to defend title to said land against the claims of all persons whomsoever. Lessor's rights and interests hereunder shall be charged primarily with any mortgages, taxes or other liens, or interest and other charges on said land, but Lessor agrees that Lessee shall have the right at any time to pay or reduce same for Lessor, either before or after maturity, and be subrogated to the rights of the holder thereof and to deduct amounts so paid from royalties or other payments payable or which may become payable to Lessor and/or assigns under this lease. If this lease covers a less interest in the oil, gas, sulphur, or other minerals in all or any part of said land than the entire and undivided fee simple estate (whether Lessor's interest is herein specified or not), or no interest therein, then the royalties and other moneys accruing from any part as to which this lease covers less than such full interest, shall be paid only in the proportion which the interest therein, if any, covered by this lease, bears to the whole and undivided fee simple estate therein. All royalty interest covered by this lease (whether or not owned by Lessor) shall be paid out of the royalty herein provided. This lease shall be binding upon each party who executes it without regard to whether it is executed by all those named herein as Lessor.
- 11. If, while this lease is in force, at, or after the expiration of the primary term hereof, it is not being continued in force by reason of the shut-in well provisions of paragraph 3 hereof, and Lessee is not conducting operations on said land by reason of (1) any law, order, rule or regulation, (whether or not subsequently determined to be invalid) or (2) any other cause, whether similar or dissimilar, (except financial) beyond the reasonable control of Lessee, the primary term hereof shall be extended until the first anniversary date hereof occurring ninety (90) or more days following the removal of such delaying cause, and this lease may be extended thereafter by operations as if such delay had not occurred.
- 12. Lessor agrees that this lease covers and includes any and all of Lessor's rights in and to any existing well(s) and/or wellbore(s) on said land, other than existing water wells, and for all purposes of this lease the re-entry and use by Lessee of any existing well and/or wellbore shall be deemed the same as the drilling of a new well.
- 13. Notwithstanding anything to the contrary contained in this lease, at the option of Lessee, which may be exercised by Lessee giving notice to Lessor, a well which has been drilled and Lessee intends to frac shall be deemed a well capable of producing in paying quantities and the date such well is shut-in shall be when the drilling operations are completed.
- 14. As a result of land development in the vicinity of said land, governmental rules or ordinances regarding well sites, and/or surface restrictions as may be set forth in this lease and/or other leases in the vicinity, surface locations for well sites in the vicinity may be limited and Lessee may encounter difficulty securing surface location(s) for drilling, reworking or other operations. Therefore, since drilling, reworking or other operations are either restricted or not allowed on said land or other leases in the vicinity, it is agreed that any such operations conducted at a surface location off of said land or off of lands with which said land are pooled in accordance with this lease, provided that such operations are associated with a directional well for the purpose of drilling, reworking, producing or other operations under said land or lands pooled therewith, shall for purposes of this lease be deemed operations conducted on said land. Nothing contained in this paragraph is intended to modify any surface restrictions or pooling provisions or restrictions contained in this lease, except as expressly stated.
- 15. Notwithstanding anything to the contrary in this lease, Lessee is hereby granted the right, at its option, either before or after production is established, to place any land covered by this lease in a co-operative with other land, lease or leases, for the exploration and development of all lands included in such co-operative, on such terms and conditions as Lessee may consider prudent. Any such co-operative formed by Lessee shall consist of such amount of acreage, configuration and number of wells, as Lessee shall determine at the exercise of Lessee's reasonable judgment, including Lessee's modification, rearrangement, enlargement, and reduction of such co-operative. If all or a portion of lands covered by this Lease, is included in a co-operative, then royalty shall be paid on a surface acreage basis, that is on the basis that the number of acres covered by this lease that is included in the co-operative bears to the total number of acres in the co-operative.
- 16. Notwithstanding anything to the contrary in this lease, Lessee agrees there shall be no drilling or surface operations on any of the lands covered by this Lease.
- 17. This Lease may be executed in any number of counterparts of each of the Lessors as identified on Schedule I hereto and each counterpart of a Schedule I hereto so executed shall have the same force and effect as an original instrument and as if all the parties to the aggregate counterparts had signed the same instrument. For recording purposes, the counterpart signature and acknowledgment of the Schedule I of each of the Lessors may be included in one instrument to be filed for record in the records of the County Clerk of Tarrant County, Texas.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

SEE SCHEDULE I ATTACHED HERETO FOR THE NAMES AND ADDRESSES OF EACH LESSOR AND THE SIGNATURES AND ACKNOWLEDGMENTS FOR EACH LESSOR

#### Schedule I

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL AND GAS LEASE DATED February 12 2008, FROM , AS LESSOR TO XTO ENERGY, INC., AS Nichols, Vivian LESSEE. 43912970279 Lands Covered by this Lease: Nichols, Vivian 966 E Oleander St 1309 Corbin Pl NE Blk 1 Lots 19B & 20B .057 ac. Washington Dc 20002 Graves & McDaniels #1 Sub Individual Lessor: OR Corporate Lessor: Company Name ITS: Position or Title COUNTY OF Individual Acknowledgment STATE OF Wishich BEFORE ME, the undersigned authority, on this day personally appeared known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considering therein expressed. Given under my hand and seal of office this Notary Public LOLETA T. ABDULL AH NOTARY PUBLIC DISTRICT OF COLUMBIA My Commission Expires September 14, 2011. COUNTY OF Corporate Acknowledgment STATE OF BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_of known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considering therein expressed and in the capacity stated herein. Given under my hand and seal of office this day of \_\_\_\_\_\_, 2008

Notary Public



# COLT EXPLORATION CO INC 512 MAIN ST # 309

FT WORTH

TX 76102

Submitter: COLT EXPLORATION CO, INC

# SUZANNE HENDERSON TARRANT COUNTY CLERK TARRANT COUNTY COURTHOUSE 100 WEST WEATHERFORD FORT WORTH, TX 76196-0401

# <u>DO NOT DESTROY</u> <u>WARNING - THIS IS PART OF THE OFFICIAL RECORD.</u>

Filed For Registration: 06/11/2008 09:25 AM
Instrument #: D208220464
LSE 4 PGS \$24.00

D208220464

ANY PROVISION WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

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